

RECORD VERSION

STATEMENT BY

**COLONEL EARL G. MATTHEWS
UNITED STATES ARMY RESERVE**

BEFORE THE

**SUBCOMMITTEE ON OVERSIGHT
HOUSE ADMINISTRATION COMMITTEE**

SECOND SESSION, 118TH CONGRESS

APRIL 17, 2024

Good morning Chairman Loudermilk, Ranking Member Torres and Members of the Subcommittee. Thank you for inviting me to testify today. Your subcommittee's investigation into the security failures that occurred at the Capitol on January 6, 2021 is important because what happened that day must never again be repeated.

I am here today because two senior general officers of the United States Army, General Charles Flynn and Lieutenant General Walter Piatt, lied about why it took so long for the D.C. National Guard to deploy to the Capitol on January 6, 2021. When I say these officers lied, I do not do so lightly or cavalierly. I speak from personal knowledge having interacted with them on January 6th, having spoken to them on that day and having been on video and telephone conference calls with them on January 6th and on days before and after.

These officers lied with impunity, making material misrepresentations without fear of contradiction or repercussion in both oral and written testimony to multiple committees of the Congress, both House and Senate. They lied to Department of Defense investigators, and they lied to members of the press who were looking into their actions or inaction on that infamous day.

I hope to discuss with you today how they lied, where they lied and in my opinion why they lied. I will also tell you that despite their wrongdoing, these officers were and are backed to the hilt by the current civilian leadership of both the Department of the Army and the Department of Defense. The current Secretary of the Army, Christine Wormuth, has doubled-down on supporting these generals, dismissing out of hand, without investigation or inquiry, my allegations of their misconduct.

The Secretary of the Army’s spokesperson issued a statement indicating that: “Generals Piatt and Flynn have been open honest and thorough in their sworn testimony with Congress and DoD investigators. We stand by all testimony and facts provided to date and vigorously reject any allegations to the contrary.”

General Flynn will retire this summer without any accountability for having made untruthful statements to congressional committees. In 2022, the current Secretary of the Army and the current Secretary of Defense, with the strong support, encouragement and urging of the former Chairman of the Joint Chiefs of Staff, General Mark A. Milley, sent Lieutenant General Piatt’s name to the President of the United States for nomination for promotion to full General. Army leadership held open the 4-star Army Futures Command billet for nearly 1 year as various senior leaders advocated with Senate members and with the White House staff in order to win support for General Piatt’s nomination. Although these Army leaders were unsuccessful, Piatt for a time served as the de facto Acting Vice Chief of Staff of the Army before retiring this year.

A Tale of Two Duplicitous Generals

On March 2, 2021 Lieutenant General Piatt lied to a senior Department of Defense official, then Acting Assistant Secretary of Defense for Homeland Defense and Global Security, Mr. Robert G. Salesses, when Piatt told Mr. Salesses that, on January 6, 2021, Piatt never expressed concern about the negative optics of uniformed National Guard personnel at the Capitol during a 2:30 pm telephone call with D.C. government officials, the U.S. Capitol Police Chief, and D.C. National Guard leaders. Mr. Salesses was preparing to testify before a joint

hearing of the Senate Homeland Security and Governmental Affairs Committee and the Senate Rules Committee on the following day and sought Piatt's recollection of events in part because the optics question had become a topic of concern for the Senate. According to Salesses, "General Piatt told me yesterday that he did not say anything about optics." Piatt knew Salesses would repeat his false assertion before the Senate committees. Three separate police chiefs, five D.C. National Guardsmen, at least three additional D.C. government officials, and two Army officers serving as notetakers at the Pentagon all heard Piatt cite the negative optics of uniformed troops at the Capitol during the election certification as a reason that Piatt could not recommend to the Secretary of the Army that D.C. National Guard deploy to the Capitol to support the U.S. Capitol Police as the riot unfolded.

Lieutenant General Piatt also falsely claimed to various congressional committees and the DoDIG that at roughly 2:25 PM, on January 6, 2021, on a call with D.C. Government officials, U.S. Capitol Police Chief, Steven Sund, and D.C. Guard leaders, Secretary of the Army Ryan McCarthy directed Major General Walker to prepare the QRF to move to the Capitol to support the USCP, but to remain at the Armory until McCarthy gained approval. This is another of Piatt's absolute lies. First, Secretary McCarthy was not a participant on this call, which I personally helped to facilitate and which used a D.C. government phone bridge. District of Columbia Government and D.C. National Guard personnel were on the call from its outset and would have heard and remembered McCarthy's participation, yet none do. Indeed, we all say in sworn testimony that McCarthy was not on the call. Secondly, on a call where I and many others heard Piatt state that his best military advice to Secretary McCarthy would be for the D.C. Guard not to deploy to the Capitol, Piatt was after the fact claiming that McCarthy had gone to get immediate approval for such a deployment.

Lastly, Piatt and Flynn have both steadfastly and falsely claimed during multiple investigations that the QRF was not designed or postured to respond to civil disturbances. This is another lie. The QRF was organized, trained, equipped and postured only to respond to a civil disturbance or riot, which is why both the Acting Secretary of Defense and the Secretary of the Army specifically mentioned this unit in memoranda, and placed tight restrictions on its employment. Piatt knew this. Why would the Secretary of the Army immediately order the 2:25 PM repositioning of a QRF that Piatt and Flynn say was not equipped to deal with a civil disturbance situation? Piatt's lies were beginning to conflict with each other.

The extent of General Flynn's duplicity is such that he claims in sworn testimony not to have even been on a telephone conference call which multiple people have sworn that he was. On June 15, 2021, in sworn testimony, Flynn declares to the House Oversight and Reform Committee: "I understand claims exist that I participated in the phone call taking place in the Secretary of the Army's office, I did not." Here Flynn, blatantly lies to a congressional committee. Flynn was an active participant on the call from its beginning to its conclusion. I was on the 2:30 PM call and spoke to both Piatt and Flynn personally.

When asked by the Select Committee on October 28, 2021, "Did you ever—Did you speak on that call?" Flynn states that he did not. Again, this is a lie. Again, I and multiple people heard him speak on the call and told the Select Committee so. Four of us are now telling this subcommittee so under oath. An investigative counsel with the Select Committee personally told me that numerous individuals had corroborated to the Select Committee that Flynn was on the 2:30 PM call. The Select Committee knew that General Flynn was being untruthful, but excused and overlooked his lack of candor because the Select Committee was squarely focused on matters it believed would embarrass or incriminate President Trump.

On June 15, 2021, Flynn falsely claimed to the House Oversight Committee that DCNG personnel at traffic control points (TCPs) and Metro stations were equipped with helmets and body armor but that their riot control gear was stored only at the D.C. Armory. This was untrue. These D.C. Guard personnel had their full civil disturbance kit (helmet, body armor, face protection, shields, shin guards and batons) readily accessible at their dispersed locations. By June 2021, Flynn knew or should have known that the information he submitted to Congress was incorrect, yet he stated it anyway.

In his sworn June 2021 testimony, Flynn untruthfully asserts that a team under his direction of “40 officers and noncommissioned officers, immediately worked to recall the 154 D.C. National Guard personnel from their current missions, reorganize them, reacquaint them, and begin to redeploy them to the Capitol.” I have previously characterized this assertion as the willful and deliberate misleading of Congress and do so again today. There were no 40 officers and men from Flynn’s staff that assisted the D.C. National Guard in deploying to Capitol on January 6, 2021, as Flynn falsely claimed.

In his October 2021 transcribed interview by the Select Committee, Flynn is asked about the 154 D.C. Guardsmen that his team was supposedly was charged with recalling, reorganizing, and reacquainting before their deployment to Capitol Hill. A senior investigative counsel for the Select Committee asks Flynn: “Were you involved in any of the immediate mobilization efforts of those 154 guardsmen?” Flynn stated that he was not. He is then asked : “So can you speak on any of the movement of those individuals, their repositioning, their equipment, their mobilization? If you know how that occurred before they arrived to the Capitol complex at 5:20, that would be helpful, and if that was not your purview, I understand.” Flynn responds, “It was not my purview.” In this regard, Flynn’s October 2021 transcribed interview is in complete

contradiction of what he told the House Oversight Committee under oath in sworn testimony conveyed via live television.”

Piatt Directs The Creation of a Revisionist History

In March 2021, LTG Piatt directed that the Army Staff create its own official narrative of the events of January 6, 2021 that would reflect the actions of Army leadership in a favorable and positive light and would counter the negative story engendered by the testimonies of Walker, MPD Chief Contee and Capitol Police Chief Steven Sund. The document that Army leaders created was called, *Report of United States Army Operations on January 6, 2021* and it was dated March 18, 2021. That document, closely held and non-public, was shared internally with Army witnesses in all subsequent congressional investigations. The *Army Report* was given to numerous congressional committees with the proviso that it not be further shared. The *Army Report* contained myriad demonstrably false statements that would later be repeated to the DoDIG or to congressional committees. It contained none of the impartial, self-critical analysis typical of standard Army after action reviews.

The report shifted blame in the delay of the National Guard on to MPD and Capitol Police leaders who the report claimed could not tell Army leaders what actions they wanted the National Guard to perform, on Major General Walker who, according to the report, could not come up with a plan to support National Guard movement to Capitol Hill, on D.C. Mayor Bowser whose erroneous press leaks required Army Secretary Ryan McCarthy to spend time addressing press inquiries and congressional phone calls, and implicitly on Acting Secretary of Defense Christopher Miller who supposedly required McCarthy to develop and brief an intricate

plan before the National Guard could move out. The Army Report would be shared with investigators from the Department of Defense Office of Inspector General and would form the basis of that organization's fundamentally flawed Report of Investigation. The Select Committee was aware of the plethora of false, factually incorrect and/or misleading information or omissions in this official government document and did nothing to correct the record or have the Department.

The Chairman's Transcribed J6 Committee Deposition

On November 17, 2021, General Milley was deposed by the J6 Committee. Nearly everything that Milley told the committee about the delay in the deployment of the D.C. National Guard on January 6, 2021 was incorrect. Milley got his answers so consistently wrong that committee staff, at the end of their investigation, had to believe that Milley either knew exactly nothing about the D.C. National Guard, that he was lying or both.

On March 2, 2021, Milley gave an interview to the *Washington Post* in which he stated that the military reaction to the unfolding riot at the Capitol on January 6th was "sprint speed". Milley claimed that senior defense officials approved a police request for assistance in about 60 minutes. Milley claimed it then "took several hours for D.C. National Guard members to mobilize and get in place." This was untrue. Milley had misled the press with a false narrative that he himself developed in order to conceal overcaution, reluctance and inaction on the part of senior Army leadership on January 6, 2021. The D.C. National Guard was delayed because Milley, McCarthy and McConville believed the President of the United States might employ the National Guard improperly on that date and had taken measures to prevent this. McCarthy, McConville and their subordinates like Piatt and Flynn could not immediately turn their previous

mindset off. When it became obvious to most sentient beings that we needed to get unarmed Guardsmen in riot gear to the Capitol, McCarthy, McConville, Piatt and Flynn's mindset still was no troops should go to the Capitol.

On March 3, 2021, Major General William J. Walker of the D.C. National Guard contradicted Milley in sworn testimony before the U.S. Senate. Walker told the Senate committees that the D.C. National Guard personnel were ready and able to deploy to the Capitol up to 3 hours before Walker received authorization to do so on the January 6th. Walker discussed a 40-person Quick Reaction Force (QRF), fully equipped with riot control gear, that could have almost immediately been dispatched from Joint Base Andrews (formerly Andrews AFB) to the Capitol, if Walker had permission to do so. Walker knew that although D.C. National Guard personnel were located in 36 dispersed locations around the city, their full riot kits could be supplied to them without them having to return to the D.C. Armory. These personnel had appropriate training and could be directed to rally locations and task organized for movement to the Capitol. Further Walker could direct other National Guard personnel on duty to don riot gear and to linkup with U.S. Capitol Police at the Capitol. Other D.C. National Guard personnel, not assisting in the Guard's support to the D.C. government could have been converted to the civil disturbance response mission. Walker could have flushed the rather large D.C. Armory, send all available personnel in riot control gear, to the Capitol.

Walker told the committees of the unusual restrictions that were placed on his freedom to maneuver personnel and issue equipment to his forces in the days running up to January 6th 2021. He stated that Army generals Walter Piatt and Charles Flynn had been excessively concerned about the optics of moving National Guard personnel to the Capitol as rioting began

on the afternoon of January 6th and those generals received urgent requests from the Metropolitan Police Department and U.S. Capitol Police chiefs for support at the Capitol; Walker revealed that Piatt and Flynn suggested that he plan to provide D.C. National Guard troops as perimeter security at locations away from the Capitol in order free up police resources to go to the Capitol; Walker stated that he did not speak personally with Army Secretary Ryan McCarthy for over 3 hours after the Capitol was first breached and he stated that D.C. National Guard personnel were ready and able to support beleaguered MPD and Capitol Police officers at the Capitol hours earlier if they had been authorized to do so.

In his November 2021 deposition by the J6 Committee, Milley continues his “sprint speed” narrative. He states: **“At 1430. from 1430 on. The National Guard moved as fast as humanly possible. In my opinion.”** This opinion was shared by no one in the D.C. National Guard. Rather, they believed that absent impediments imposed by the Department of the Army, the D.C. National Guard would have gone to the Capitol right away.

Milley tries to explain away the gap between 3:04 PM, when the Acting Secretary of Defense authorized the Secretary of the Army to deploy the D.C. National Guard to the Capitol and 5:20 PM, when the Guard arrived at the Capitol by saying :

“Well, I mean, you have to issue out orders. The Guard has to be alerted. They have to marshal. They have to assemble at the Armory. They have to be issued equipment. They have to be issued orders and instructions. They have to be told what their rules of use of force are.”

“The last thing you want to do, right, is just willy- nilly rush an armed force into a situation like that unprepared, not enough thought out, not properly equipped, et cetera. And I can only imagine what that could have been.”

Milley's above statement is inaccurate and misleading. The National Guard element that arrived at Capitol Hill was not armed. In his transcribed deposition, Milley presents the false narrative that the D.C. National Guard was engaged in the cumbersome and bureaucratic process of mobilizing, equipping and orientation of personnel from a cold start and that the D.C. National Guard had no prepositioned personnel available and able to respond immediately to the riot on Capitol Hill. These were and are incorrect and perhaps purposefully so. The J6 Committee, after reviewing all available evidence, to include witness interviews with D.C. Guard personnel, had to know that what Milley stated during his transcribed deposition, as relates to the D.C. National Guard, was untrue, yet the Select Committee allowed his deposition testimony to go unchallenged. The below excerpt from Milley is wholly misleading by way of example:

The entire time from SecDef's decision at 1504 to the arrival of the National Guard physically at the Capitol, that's doing things on the perimeter in their activities, the entire time is like 2 to 2.5 hours.

I said, and I still think, from a cold start for those guys, that's very fast, and I still think that's true. And the, quote, unquote, delay has to do with these procedures to make sure that these kids are –not kids—these troops are properly briefed, and they're equipped properly, and they have their orders, and they know what they're doing, they know where they're going, they know the condition, the situation.

So that's what the Secretary of the Army I think was—he and his chain were doing to make sure that those Secretary of Defense orders were being followed through.

The problem with the above excerpt is that D.C. National Guard was not operating from a cold start. We had riot gear-equipped guardsmen around the city who could have formed up and gone to Capitol Hill immediately. We had the QRF at Joint Base Andrews that could have gone directly to the Hill immediately. Importantly, we had 100 or more guardsmen at the Armory on

orders to support the Presidential inauguration and other activities. We had enough riot gear for each. They could have been formed, equipped and sent to the Hill within an hour. The D.C. Guard could have sent riot gear equipped personnel to the Capitol at 15:04 when Acting SecDef approved us going to the Hill. D.C. Guard personnel at the Armory were properly equipped and ready. We waited over 2 hours for the go order. We could have made a difference if they had let us go to the Hill, but the Secretary of the Army and the Chairman, though not in the chain of command, did not want us east of 9th Street.

Q Was there any hesitation by DoD leadership to deploy the D.C. National Guard?

A None. No.

Milley is asked if there was any hesitation by DoD leadership to deploy the D.C. National Guard and responds no. That negative response is not borne out by the facts though. Secretary McCarthy had full discretion to deploy the D.C. Guard yet we were not actually given permission until after 17:00 hours. McCarthy showed great hesitation and reluctance, claiming he that needed more information and analysis before committing the National Guard to Capitol Hill, although Guard personnel were ready and able to deploy immediately. McCarthy claims that he was developing a so-called plan to deploy the Guard with the assistance of the Mayor. This supposed plan was developed in 20 minutes, but wasn't written down.

Milley states:

“The decision-makers, the two of them—there’s only two of them at this point, McCarthy and Miller—are both in the SecDef’s office. And that decision-making process based on what I already described, happened pretty quickly. And then McCarthy goes back to the Army, and then he’s back with Piatt and back with Flynn, and now they’re issuing orders—”

Unfortunately, what Milley avers above is not true. Acting Secretary Miller gave Secretary McCarthy full discretion to deploy the D.C. National Guard to Capitol Hill at 3:04. No one told the D.C. National Guard leadership. McCarthy wanting to be “deliberate,” issued no orders and was not in personal contact with Major General Walker for over 3 hours. Instead, McCarthy began fielding phone calls from the members of Congress and the news media. He was not talking to or exercising his control over the D.C. National Guard. In subsequent investigations, McCarthy claimed he was engaged in so-called “mission analysis” and “planning” for the deployment of the Guard to Capitol. If this was true, D.C. National Guard personnel were not involved in these efforts and never utilized any analysis or plan developed by McCarthy. Further, as McCarthy later acknowledged, Acting Secretary Miller never requested that he be presented a plan before the D.C. National Guard went to Capitol Hill. McCarthy wanted to provide notification anyway.

Milley was asked to respond to Walker’s testimony to the Senate that “155 people could’ve arrived to the Capitol in minutes.” Milley implies that Walker was being untruthful under oath, as an anonymous Army witness had suggested in the DoDIG report. He states:

[w]ell, I mean, first of all, as I recall, he said words to that effect in testimony. I don’t know that that was true. . .I’m not saying that he intentionally told an untruth. So that’s different. I’m not saying that. I think people sometimes overestimate out of pride, out of –because of their job. He’s very proud of the Guard.”

In the foregoing paragraph, Milley implies that Major General William Walker, had exaggerated or overstated the true ability of the D.C. National Guard to immediately respond and deploy to Capitol Hill hours earlier than it had been authorized to when Walker testified under oath before a joint hearing of two Senate committees. Milley suggested by implication that a then

sitting officer of the House of Representatives had deliberately and cavalierly perjured himself during a nationally televised hearing of those Senate Committees. Members of the Standing Committee let Milley's insinuation against Walker, the man then charged with their personal physical security, go unchallenged. This was an outrage.

Similarly, as relayed in the November 2021 DoDIG report, an anonymous witness told the DoDIG that:

“Mr. McCarthy had to reissue the deployment order to MG Walker 30 minutes after he originally conveyed it to MG Walker, which the witness believed contradicts MG Walker’s March 3, 2021 testimony to the Senate Homeland Security and Governmental Affairs and Senate Rules and Administration Committees. The witness told us that MG Walker’s assertion to those committees that the DCNG could have responded to the Capitol in 20 minutes was not true. The witness said, “It took 27 minutes for [MG Walker] to get the order from [Mr. McCarthy] around [4:35 p.m.] to actually get his wheels moving on the bus.” In addition, the witness said “mischaracterization” was the word the witness would use to describe MG Walker’s response to questions from congressional committees.”

The above paragraph is false in its entirety. Ryan McCarthy told the Select Committee that he never directly spoke to Major General Walker at 4:35 p.m. as he was in the midst of “taking notes” and developing “talking points” in preparation for a nationally televised news conference to begin shortly at MPD Headquarters with Mayor Bowser. McCarthy claims he overheard then Brigadier General Christopher LaNeve convey the alleged “go order,” but LaNeve told the Committee that he never conveyed the order to Walker but heard McCarthy convey this supposed order. McCarthy was in the midst of that news conference 30 minutes later, so could not possibly have “re- issued” anything to Walker. I only drafted my December 2021 analysis of the DoDIG report after reviewing the allegations of the false 4:35 phone call to Walker and the re-issue order 30 minutes later. Anonymous Army officers had deliberately

spread false information to discredit and defame Major General Walker for his testimony and to rehabilitate Lieutenant General Walter Piatt, so he could be promoted.

After impugning General Walker's veracity, integrity and sense of reality, Milley then asks a question that exemplifies the disconnect between he, Piatt, Flynn, McConville and the police chiefs, D.C. government officials, and D.C. Guard leaders who were on the 2:30 PM call on January 6, 2021. Milley asks:

“And even if he had 150—let’s just say they did—where were they going to go? What were they going to do? What was their mission? What was their task and purpose? What was their rules on the use of force? And who approves it?”

Milley posits the above question like it's hard to answer. If Walker had a 150 riot gear equipped personnel, he would send them immediately to Capitol Hill to the base of the Capitol where they take direction from the senior ranking U.S. Capitol Police or MPD officer. They would perform the same duties as the men and women of the D.C. National Guard performed when General Milley took his leisurely stroll through Lafayette Square on the early evening June 1, 2020, that is support law enforcement authorities during civil disturbance operations, a mission the District of Columbia National Guard has performed since 1802 and the broader Guard since 1636. Their rules for the use of force would be the standard rules given all D.C. Guardsman by judge advocates and paralegals who work for Colonel Matthews, just like in the summer of 2020. Hopefully the Secretary of Defense and the Secretary of the Army would approve the mission.

As we've seen, with respect to the D.C. National Guard, the averments in Milley's deposition by the Standing Committee are wholly inaccurate whether purposeful or not.

The Standing Committee Cherry Picked Evidence

The Standing Committee unfairly faulted President Trump for failure to call the Pentagon on January 6, 2021 to demand that the D.C. National Guard be deployed faster. The committee knew that even if President Trump had called down personally to the Secretary of the Army, who had effective operational control of the D.C. National Guard, to direct the immediate movement of the Guard, it would have had no impact. Indeed, the Secretary of the Army might not have taken the President's phone call. In his transcribed deposition before the Committee, former Secretary of the Army, Ryan McCarthy is asked, "if President Trump had called you or Secretary Miller and said, let's go, let's get these folks moving, would it have impacted the response time?" Secretary McCarthy replied, **"I'd say we're working on it, Mr. President. We've got to know what we're supposed to do. I mean, that was – we wanted to be deliberate in how we employed them and make sure we got it right."**

Milley is asked a similar question on two occasions: Representative Kinzinger asks Milley: **"General. Can you answer, had the President called you and made a direct order to defend the Capitol, would that have cut one some of the, maybe bureaucracy that delayed it?"**

Milley replies: **"Yeah. I don't –well. First of all, he didn't call. But had he called and directed it, were were directing it anyway. Secretary Miller directed it—Acting Secretary Miller directed it at, like 1500 or 1504, whatever the timeline says. It's actually pretty quick, where orders are going out, and then the order goes to Secretary McCarthy, and then his orders are going out. So I don't know that even if he had called it would have sped anything up."**

Milley is asked later: “On January 6th, could President Trump have taken any action that would’ve increased the response time of the D.C. National Guard? In other words, was there anything he could’ve done to have gotten them there faster?” Milley also answers in the negative. He states: **“There wasn’t anything that I think President Trump could’ve done to speed that process up. You know he could’ve called and been all excited and yelled and screamed and said, ‘Go faster, go faster.’ But that’s about as fast as that system is going to move, given that they weren’t prepositioned. “**

The leadership of D.C. Guard on January 6, 2021, Major General William J. Walker, its Commanding General, Brigadier General Robert K. Ryan, the Joint Task Force Commander responsible for the support mission that day, would be astounded by the sentiments conveyed by Milley and McCarthy. If their Commander-in-Chief had called them and said get to the Capitol, they would have immediately thrown every available asset toward the Capitol without delay. They had done it before. When the White House Complex was under siege by violent demonstrators in late May 2020, converting troops assigned on COVID-19 orders into a civil disturbance response element and deploying them quickly to Lafayette Square. McCarthy and Milley were silently conceding that Army leadership was an impediment to the Guard’s deployment.

Just as the President would not reach down and directly call the Commanding General of the 1st Marine Division or the 82nd ABN Division, neither would he call directly the Commanding General of the D.C. Guard. He (actually President Truman and later President Nixon) had delegated his command authority over the D.C. National Guard for a reason. He is a fairly busy person, he has an entire government to run and a free world to keep free. Instead, the President trusted and empowered his subordinate chain of command.

Trump entrusted and fully empowered his chain of command and then did not micromanage or interfere in it. President Trump would likely have received widespread criticism if he did reach two echelons down to speak directly with D.C. National Guard leaders. However, that is what would have been required to speed up deployment of the D.C. National Guard to the Capitol because there was a bottleneck within the Department of the Army, its leadership did not desire the D.C. Guard to move any faster than it did on January 6th. Acting Secretary Miller had plenary authority to act with regard to the D.C. National Guard. At 3:04 PM, Miller gave Secretary McCarthy full discretion to move to Capitol Hill. Any delay appears to have been caused at the Department of the Army level because as Secretary McCarthy said, Army leadership **“wanted to be deliberate.”** This desire to be deliberate is the exact opposite of **“sprint speed.”** General Walker was not authorized to move until over 2 hours later, even though at least some D.C. National Guard personnel could have moved out immediately.

A Moral and Ethical Duty To Correct the Historical Record

The Standing Committee gave a pass to military leaders that I believe the Committee knew had falsified information. The Standing Committee overlooked lying. They did so for a couple of reasons. One is a reverence for the American military that we should all have. You had two generals walk in both with a chest full of ribbons and a military entourage and talk about how many combat deployments they had and how they served our country in far off lands to a bunch of civilians, most of whom have never worn the Nation’s cloth. Lastly, Former Representative Elizabeth Cheney, who ran the Select Committee, did not want to focus on any of the security failures of January 6th, or on the agencies of our government that were responsible.

Rather, Ms. Cheney had a singular and unremitting focus and his initials are Donald John Trump. Ms. Cheney, however, did our military and security agencies no favor by sweeping our missteps under the rug. Only by knowing about our mistakes can we learn from them and ensure they don't happen again.

An investigative counsel on the Standing Committee's staff all but acknowledged to me that a few witnesses changed their story each time they spoke with a different investigative committee. He implied the DoDIG Report was fundamentally flawed as a result, based on the Committee's investigative findings. This committee lawyer told me that the professional staff would recommend to the full Standing Committee that DoDIG be contacted so the record could be corrected. He told me that the full committee report would indicate where the DoDIG report differs from or corroborates what the Standing Committee subsequently found. Yet the January 6th Committee let the DoDIG Report stand uncorrected, allowing it to pollute the historical record.

The DoDIG Report still falsely claims that Secretary Ryan McCarthy directly called Major General Walker twice, at 16:35 and at 17:00 to order the D.C. Guard to the Capitol. The report states that McCarthy directed Walker to move the QRF from Joint Base Andrews to the D.C. Armory at 14:25, yet we know these things did not occur. These are but two examples. The DoDIG report is replete with other demonstrably false errors or lies which will now go unchallenged. Similarly, the *U.S. Army Report of Operations* is replete with historical distortions, yet it will go one day to an Army archive where future historians will rely upon it. The DoDIG report was cited by an expert witness in the Colorado case which saw President Trump removed from the ballot. The Standing Committee had a moral and ethical obligation to

correct the historical record and to expose willful efforts to deceive the Congress, even if they can't implicate President Trump by doing so.

Conclusion

Mr. Chairman, thank for allowing to share my recollection of events. I welcome the committee's questions.

ADDENDUM

An Overview of the *Report of United States Army Operations on January 6, 2021*

Lieutenant General Piatt also directed, supervised and controlled the drafting of an Army white paper titled *Report of United States Army Operations on January 6, 2021*, (the “*Army Staff Report*”) which purports to be an official recollection of the events of January 6th, as they relate to the Department of the Army.¹ Dated March 18, 2021, the report contains none of the impartial and self-critical analysis found in standard Army after action reviews which identify strengths and weaknesses of Army performance and suggest areas for improvement and continuity. However, this official Army record is replete with inaccuracies, falsehoods, omissions and half-truths. This official document recounts multiple conversations and events that never occurred. It suggests for instance that the Mayor of the District of Columbia and the Secretary of the Army were active and vocal participants on a 2:30 pm telephone call, which neither were.² It also implies that Lieutenant General Piatt spoke directly with the Mayor on the afternoon of January 6th, which he did not.³

The *Army Staff Report* absolves senior Army leadership of any missteps or errors on January 6th, while casting blame for any delay in the D.C. National Guard reaching the Capitol squarely at the feet of the U.S. Capitol Police Chief, the Acting D.C Metropolitan Police Chief, the D.C. Mayor, the D.C. National Guard leadership and, by implication, the Acting Secretary of Defense.

Access to the *Army Staff Report* was closely held and tightly restricted from the outset.⁴ The report was drafted without the input or involvement of anyone from the D.C. National Guard and its leaders were not allowed by Army senior leaders to review the report even after it was drafted and presented to members of the Congress. Piatt directed the release of the report to various congressional committees and to the DoD Inspector General with the proviso that the report not be shared externally. Some would suggest that the reason for this was to avoid subjecting the document to scrutiny by those with direct and personal knowledge of the events described within the report.

As an Army officer, a judge advocate and, in my civilian capacity, as a former chief legal officer of the Department of the Army, I am shocked and dismayed that senior leaders of our Army would have created such a fundamentally flawed and factually deficient product and submitted it to even one committee of the Congress. Lieutenant General Piatt, or those working

¹ DEP’T OF THE ARMY, REPORT OF U.S. ARMY OPERATIONS ON JANUARY 6, 2021, (March 18, 2021) [Hereafter, the “*Army Staff Report*.”].

² *Id.* at 7.

³ *Id.* at 8.

⁴ D.C. National Guard leaders did not view the document until it appeared in the press in early December 2021.

on his behalf, willfully submitted the error- and prevarication-laden report to staffers or members of no fewer than six committees of the Congress: the Senate Homeland Security and Governmental Affairs Committee, the Senate Rules Committee, the House Oversight and Government Reform Committee, the Senate and House Armed Services Committees, and the House January 6th Committee. The report was relied on heavily by the Department of Defense Inspector General in developing its own flawed and deficient accounting of January 6, 2021.

Lieutenant General Piatt directed that the report be drafted in the wake of testimony before the Senate by Chiefs Robert Contee and Steven Sund and Major General William Walker, which reflected negatively on Piatt and others. Piatt repeatedly relied upon or cited the report although he knew or should have known much of what is stated in the report was untrue. Piatt owns this document which can reasonably be construed as an effort to deceive and mislead the Congress.

The disingenuous and revisionist character of the document Piatt produced is revealed in its opening paragraph. The *Army Staff Report* begins its explanation of the events of January 6, 2021, with a recitation of the history of the Posse Comitatus Act⁵, even though that Act was inapplicable to the D.C. National Guard (or other Guard units) that responded to the riot at the Capitol that day, none of whom were federalized. There was never any contemplation of using active duty forces to respond to the Capitol on January 6th. Why then would the Army's definitive explanation of that day begin with a history of the Posse Comitatus Act, which was not applicable, except to obfuscate and mislead? The report's opening paragraph similarly mentions a "healthy skepticism" of using military forces in domestic law enforcement while conveniently omitting the historic and traditional role of the National Guard in assisting in civil disturbances (riots) when the capacity of civilian authorities has been overstretched, as was the case on January 6th.⁶

The *Army Staff Report* repeatedly emphasizes that D.C. National Guard personnel were not armed with lethal weapons on the 6th, implying their unarmed status was a reason for the reluctance to deploy guardsmen to the Capitol.⁷ In truth, there was no request to equip D.C. National Guard personnel with firearms on January 6, 2021. The soldiers and airmen of the D.C. National Guard, except in rare instances, were also without firearms during the summer of 2020, when they responded to the rioting in the capital following the death of George Floyd.

The *Army Staff Report* also falsely states that D.C. National Guard personnel at the various traffic control points and Metro stations around the city had only helmets and ballistic

⁵ 18 U.S.C. § 1385.

⁶ Shannon M. Smith 2021. *How the National Guard became the go-to military force for riots and civil disturbances*. The Conversation. <https://theconversation.com/how-the-national-guard-became-the-go-to-military-force-for-riots-and-civil-disturbances-153971> (accessed 6 March 2022).

⁷ *Army Staff Report* at 6, 11.

vests⁸ in their vehicles and lacked the other requisite civil disturbance gear (shields, batons, shin guards) necessary to respond to the riot at the Capitol.⁹ This is also untrue. The D.C. Guard personnel at these locations had all of the requisite civil disturbance response kit in their government vehicles and readily accessible on the afternoon of the 6th. Contrary to the *Army Staff Report*, these personnel also all had the requisite training to respond to a civil disturbance event, most having served during the unrest of the previous summer.

The *Army Staff Report* falsely states that the “[D.C. National Guard] was prepared to provide the limited support requested by [the D.C. government’s Homeland Security and Emergency Management Agency] and nothing more.”¹⁰ This statement is untrue. The D.C. National Guard had other Army and Air Force personnel on duty and not dedicated to the traffic control support mission. These trained personnel could have been diverted to support the U.S. Capitol Police in response to the civil disturbance at the Capitol. This is what occurred, for example, on May 30, 2020, when D.C. National Guard personnel supporting a COVID-19 response mission were, on short notice, outfitted in riot gear and used to reinforce the security perimeter of the White House Complex.

The *Army Staff Report* also inaccurately states that the D.C. National Guard Quick Reaction Force (QRF) on the 6th was only prepared to provide backup to guardsmen at the various traffic control points and Metro stations. This is untrue. The QRF existed for other contingencies as well such as civil disturbance operations, which is why each member of the QRF was fully kitted in civil disturbance gear. Ironically, the report states falsely that the Secretary of the Army tasked Major General Walker with preparation to move the QRF to the Capitol at 2:25 p.m. on the 6th. The report does not explain why the Secretary would do so if the QRF was only designed to backup the Metro stations and traffic control points.

The *Army Staff Report* disingenuously implies that law enforcement officials requested that the D.C. National Guard be used to clear the Capitol building of rioters on January 6th.¹¹ Neither Chief Sund nor Acting Chief Contee made such a request. What Chief Sund and D.C. government officials requested on the afternoon call of January 6th was the aid of as many riot gear equipped guardsmen as possible to assist beleaguered U.S. Capitol Police and Metropolitan Police civil disturbance units in re-establishing the security perimeter at the seat of government. These personnel would perform roles similar to those performed around the security perimeter of the White House and at other federal structures during the course of the civil unrest of the summer of 2020. That was the D.C. National Guard’s plan of employment and use. Chief Sund had provided Major General Walker a link up location for D.C. Guard personnel to integrate with the U.S. Capitol Police.

⁸ Id.

⁹ Although separate guidance issued respectively by the Secretary of Defense and the Secretary of the Army on 4 and 5 January 2021 prohibited D.C. National Guard personnel at the traffic control points and Metro stations from possessing riot gear, all D.C. Guard personnel at these locations did possess the necessary riot gear in their vehicles on January 6, 2021. Lieutenant General Piatt knew or should know that the *Army Staff Report* was incorrect on this point.

¹⁰ *Army Staff Report*, 7.

¹¹ Id. at 8.

The *Army Staff Report* falsely claims that law enforcement officials could not articulate what assistance they needed from the D.C. National Guard and that “[t]he inability of law enforcement officials to clearly communicate the task for the QRF further delayed planning and executing a faster response from the DCNG.” This assertion is both untrue and patently absurd.

The *Army Staff Report* falsely claims senior Army leaders eventually developed a plan for the D.C. National Guard to deploy to the Capitol and link up with law enforcement leaders and then provided this plan to the D.C. National Guard for execution. This did not occur.

The *Army Staff Report* also states that Lieutenant General Piatt and Army Staff personnel under his direction, or the direction of then-Lieutenant General Charles Flynn, were involved in assisting, supporting, or facilitating the eventual movement of D.C. National Guard forces to the Capitol on the afternoon and early evening of January 6, 2021. This assertion is false in its entirety. Neither Lieutenant Generals Piatt or Flynn nor any of their subordinates played any role in getting the D.C. National Guard to the Capitol on January 6, 2021, although they both testified falsely under oath before a hearing of the House Oversight and Government Reform Committee that they assisted the “5:02 pm” movement to the Capitol.

The *Army Staff Report* conveniently and critically omits that every leader in the D.C. National Guard wanted to respond to the unrest at the Capitol as soon as they became aware of the perimeter breach at the Capitol and the urgent USCP and MPD requests for support. The concerns, hesitation, and reluctance expressed by Piatt and Flynn were not shared by Major General Walker or his subordinate commanders. These D.C. National Guard leaders understood the proposed mission to immediately augment and assist civil disturbance units in re-establishing and reinforcing the perimeter around the Capitol. The *Army Staff Report* also conveniently omits that Lieutenant Generals Piatt and Flynn asked DCNG to consider planning for missions to relieve civilian enforcement away from the Capitol in order to free up civilian law enforcement officers to go to the Capitol.

With respect to the supposed lack of a plan, the *Army Staff Report* incredibly makes the following assertion: “Moving without this basic planning would, at best have caused additional confusion; and at worst, could have resulted in serious bodily injury to Guardsmen, law enforcement officers, or the peaceful protestors outside the Capitol.” That stunning sentence must be carefully parsed. The D.C. National Guard, its troops and leaders, were willing to assume the risk of bodily injury on 6 January, much as they did during the preceding summer. However, in an official Army document, submitted to the Congress, senior Army leaders were asserting that sending trained D.C. National Guardsmen in civil disturbance gear when first requested to augment and assist MPD and USCP civil disturbance units could have exacerbated the situation rather than help in alleviating the then extant danger to law enforcement and to the Congress itself. This official Army record also characterizes the rioters unlawfully assembled at the Capitol as “peaceful protestors.” An Army senior leader also used the “peaceful protestor” characterization during the infamous 2:30 pm call on January 6, 2021, and now again it was being used in the March 2021 *Army Staff Report*, long after it was abundantly clear that the violent demonstrators unlawfully arrayed opposite the police at the Capitol on January 6, 2021, could in no way be legitimately characterized as such.

In a concluding paragraph, the *Army Staff Report* states:

“As soon as they were notified of the severity of the situation Capitol [sic], at approximately 1425 hours, Army senior leaders worked relentlessly to develop an understanding of the situation, plan the new mission of the DCNG—which involved inserting the DCNG into a chaotic and dangerous environment—and gain Acting SecDef approval to conduct CDO. This entire process took approximately two hours.”

The above paragraph is false and misleading. Former Acting Secretary of Defense, Christopher Miller, stated in sworn testimony before the HOCR that he gave the Secretary of the Army full discretion to deploy the D.C. National Guard to the Capitol at 3:04 pm.¹² By that time, Piatt and Flynn did not need to “develop an understanding of the situation.” They both had spoken to Chiefs Sund and Contee for nearly 30 minutes. They knew that the Capitol was under siege by violent rioters. They knew that the capability of the Capitol and Metropolitan Police to respond to the rioting was quickly being overwhelmed. They knew that the urgent and immediate support of the D.C. National Guard was requested. Piatt and Flynn also knew from Major General Walker that the D.C. National Guard was ready and able to respond. It is unclear what Piatt and Flynn reported back to or advised the Secretary of the Army. We do know that Army senior leaders allegedly spent 90 minutes drafting a plan that the Acting Secretary of Defense says he never asked for, a plan that, if it did exist, was never provided to nor implemented by the D.C. National Guard. This was the relentless effort Piatt was now writing about in the *Army Staff Report*.

¹² *The Capitol Insurrection: Unexplained Delays and Unanswered Questions: Hearing Before the H. Comm. on Oversight & Reform*, 117th Cong. (2021) (testimony of Christopher C. Miller, former Acting Secretary, Department of Defense).